bipartisan bill was put forward which would have given judges a long-awaited pay raise. The Federal Judicial Salary Restoration Act of 2008 would have brought judicial salaries more closely in line with what the position merits. Although this bill had support on both sides of the aisle, we were unable to pass it this year. We will return to that proposal in the very near future.

The bill we have introduced today simply provides a cost-of-living increase for this year. I favor a proposal, included in the Salary Restoration Act, which would guarantee judges a cost-of-living adjustment every year. But at the very least, we must provide such an increase for this year.

Between 1993 and 2001, the Federal judiciary has received only three out of eight proposed cost-of-living adjustments. Because of Congress's failure to act, judicial pay has declined relative to the rest of the economy, and judicial independence is threatened. It is time we stop allowing judicial pay to diminish.

If we are to preserve the judicial independence envisioned by our country's Founders, we must not allow judicial pay to continue to ebb. Passage of this bill would be a small downpayment on the more meaningful steps we need to take to treat judges with the respect they deserve.

Mr. LEAHY. Mr. President, at the very beginning of the 110th Congress, I joined with Senators REID, SPECTER, FEINSTEIN, and CORNYN to pass legislation to authorize a cost-of-living adjustment, COLA, for the salaries of U.S. Justices and judges for fiscal year 2007. Now as we wrap up this session, we are again compelled to take remedial action, because a COLA for our Federal judiciary was not included in the continuing resolution for fiscal year 2009.

Earlier today, we attempted to pass a bipartisan bill to repeal the section of the U.S. Code that is a barrier to Federal judges receiving an automatic cost-of-living adjustment. The Administrative Office of the United States Courts notes that when adjusted for inflation the pay rate for Federal judges has declined by 25 percent since 1969. In 1975, Congress enacted the Executive Salary Cost-of-Living Adjustment Act, intended to give judges, Members of Congress, and other high-ranking executive branch officials automatic COLAs as accorded other Federal employees unless rejected by Congress. However, in 1981, Congress enacted section 140 of Public Law 97–92, mandating specific congressional action to give COLAs to judges. This action has resulted in judges failing to receive a cost-of-living adjustment when other Federal employees have received one. Unfortunately, there was an objection on the other side of the aisle that prevented passage of the measure to repeal this antiquated section and to ensure that the wages of our Federal judges can keep up with inflation.

The bipartisan legislation we are now trying to move provides a COLA for Federal judges consistent with the law and with fairness. I hope that this measure, providing judges with a COLA for fiscal year 2009, can pass by both sides of the aisle by unanimous consent. I had sincerely hoped that we could have passed a more comprehensive judicial pay bill this Congress given all the work we dedicated to the issue in the Judiciary Committees of both the Senate and the House of Representatives but at a minimum we should not allow judicial salaries to slip even further behind.

Mr. BINGAMAN. Mr. President, a strong and independent judiciary is essential to the administration of justice in our country.

It is my understanding that the Senate has been unable to clear bipartisan legislation introduced by Senators REID and MCCONNELL which would repeal the requirement that Congress specially authorize a cost-of-living increase each year for the Federal judiciary. Repealing this provision, which is known as section 140, would in essence ensure that Federal judges are treated in the same manner as Members of Congress regarding salary adjustments.

I am disappointed that this bipartisan effort is being blocked, but I am pleased that the Senate is expected to pass another measure, which I have cosponsored, that would provide a cost-of-living increase to judges for at least the next year. Without this fix, Members of Congress will receive a COLA increase in January along with most of the Federal workforce, but not the judiciary. I don't see any reasonable justification for giving Members of Congress and the Federal workforce a cost-of-living increase and denying the judiciary a similar adjustment.

There are ongoing discussions about the extent we should provide for an overall increase in judicial compensation, but the issue we are discussing today isn't about making major adjustments to judicial salaries. I support reforming judicial salaries, and I hope the next Congress will be able to pass legislation to this end, but in the meantime I believe it is important that we don't deny the judiciary a reasonable cost-of-living increase.

Leaving the judiciary behind would be wrongheaded and shortsighted. By denying these dedicated public servants adequate compensation, we are making it more difficult to attract and retain judges of the highest caliber.

I would also like to note my appreciation for the majority leader's efforts to address this issue. Although attempts to repeal section 140 have stalled at this point, I know Senator REID, along with Senator LEAHY, are committed to ensuring that we maintain a strong judiciary and to enacting necessary reforms. I will continue to do everything I can to support these efforts.

Mr. DORGAN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3711) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COST OF LIVING ADJUSTMENT FOR THE FEDERAL JUDICIARY.

Pursuant to section 140 of Public Law 97–92, justices and judges of the United States are authorized during fiscal year 2009 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

MAKING A TECHNICAL CORRECTION TO THE PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3712 introduced earlier today by Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3712) to make technical corrections in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION IN MENTAL HEALTH PARITY EFFECTIVE DATE.

Section 512(e)(2)(B) of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (subtitle B of title V of division C of Public Law 110-343) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

SHORT-TERM ANALOG FLASH AND EMERGENCY READINESS ACT

Mr. DORGAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 3663 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3663) to require the Federal Communications Commission to provide for a short-term extension of the analog television

broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, I rise today to discuss a very important change that is set to occur all across America on February 17, 2009: The final switch from analog to digital broadcast television called the DTV, or Digital TV, Transition.

In many respects this is not a new issue. The wheels have been in motion on this change since 2005—spurred by the horrible tragedy of September 11th which starkly highlighted our desperate need for a national, interoperable communications network. The transition to digital TV will free up spectrum for public safety use so the national emergency communications network America needs can be put in place.

But there have been serious concerns about our readiness to make the shift to digital TV, and several of my colleagues and I have been raising red flags about them for years now. Not because we believe the change is a mistake, but because we believe that not enough has been done to prepare, to educate, and to help American consumers so that the screens on their television sets do not go black 88 days from now.

What is the change from analog to digital broadcast? Over-the-air broadcasters will send their signal over digital spectrum, not analog spectrum that is currently used. The change won't affect consumers with cable or satellite TV or those who have a converter box for their older analog TV set. And the switch to digital will improve the definition and clarity of the TV picture.

Why are we making this change? Primarily to modernize our airwaves and use the more efficient digital spectrum for a smarter use of our limited spectrum resources for the public good. The change will, again, free up critically needed spectrum so that we can move toward the nationally interoperable public safety communications network we need. It will also allow over-the-air broadcasters to offer new and innovative programming and provide new spectrum for wireless technologies.

The DTV Act was enacted as part of the Deficit Reduction Act of 2005. It directs the Federal Communications Commission, FCC, to require all full power television stations to cease analog broadcasting following February 17, 2009. That day is 88 days from now. What this means—and let me be very clear—is that any consumer with traditional analog televisions—regular TV sets that use an antenna to get a signal—will not be able to watch free, over-the-air television without taking one of three steps to adapt their TV to receive a digital signal. The most common and least expensive way that consumers can adapt their TV will be to buy a digital-to-analog converter box to hook up to their analog television set. While seemingly a highly technical issue to some, this is no small matter to the 10–13 million Americans who might well lose their TV signal on February 18th of next year.

I firmly believe that our Nation is not ready to make this transition without substantially more involvement from every level of government, the entire communications industry, and willing community organizations across America. At present, most experts agree that the transition will unleash a massive amount of consumer confusion. And when people are cut off from their televisions, it is not just a matter of convenience, but it is a matter of public safety. We simply cannot stand by and let people lose access to emergency alerts and public safety communications.

I am especially concerned because this transition is going to hit our most vulnerable citizens—the poor, the elderly, the disabled, and those with language barriers—the hardest. We risk leaving those who are most reliant on over-the-air broadcast television for their contact with the outside world literally in the dark. These consumers are disproportionately rural.

In 2005, the outgoing administration and its proponents decided to leave almost all of the implementation of the transition to the private sector—broadcasters, cable and satellite companies, and consumer electronics retailers. While there are claims that hundreds of millions of private sector dollars have been spent making Americans aware of the DTV transition, it seems that most Americans have no idea what it really is even if they have heard of it. New surveys suggest more consumers are growing aware of the transition, but that consumers remain confused about what steps they need to take to get ready for it. Consumer Reports has found that 63 percent have major misconceptions about what steps they need to take to prepare.

The recent DTV transition test market of Wilmington, NC demonstrated that, even with extraordinary levels of outreach, some still did not know anything about the DTV transition. I would note that Wilmington received far more attention than any market in West Virginia is likely to receive, or any other part of the country for that matter.

Even in the test market, several thousand people called into the FCC for assistance—they could not set up their converter box, they could not receive certain digital signals, or their antennae needed adjustment—just to name a few of the problems. Consumers, especially the elderly and those with limited English proficiency, are going to need help in managing the transition. On February 18, 2009, those thousands of calls will become millions.

There is no question the transition to DTV could have and should have been far better managed and far better planned. But at this point, we must focus on fixing it, not laying blame.

Last night, I asked unanimous consent for the Senate to take up S. 3663, the Short-term Analog Flash and Emergency Readiness Act, as amended. This piece of legislation will help make sure those consumers who fail to make the DTV transition by February 17, 2009 are not left without access to emergency information. This bill will also allow those consumers to understand what steps they need to take in order to restore their television signals by allowing an analog signal to continue to be broadcast in each regional market for an additional 30 days past February 17th.

Let me be clear: This bill is far from a silver bullet that will fix all the problems associated with the transition.

I can assure my colleagues that the new Democratic leadership in Congress and the White House is committed to protecting the American consumer. Over the next few months, I will work with my colleagues on a more comprehensive plan of action to make sure millions of Americans receive the support and assistance they need to make this transition.

Mr. DORGAN. Mr. President, I ask unanimous consent that a Rockefeller substitute amendment which is at the desk be agreed to; the bill be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements related to the bill be placed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5698) was agreed to, as follows:

(Purpose: To provide for the short-term partial extension of analog broadcasting)

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Short-term Analog Flash and Emergency Readiness Act''.

SEC. 2. COMMISSION ACTION REQUIRED.

(a) PROGRAM REQUIRED.—Notwithstanding any other provision of law, the Federal Communications Commission shall, not later than January 15, 2009, develop and implement a program to encourage and permit, to the extent technically feasible and subject to such limitations as the Commission finds to be consistent with the public interest and the requirements of this Act, the broadcasting in the analog television service of only the public safety information and digital transition information specified in subsection (b) during the 30-day period beginning on the day after the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service and the cessation of broadcasting by full-power stations in the analog television service.

(b) INFORMATION REQUIRED.—The program required by subsection (a) shall provide for the broadcast of—

(1) emergency information, including critical details regarding the emergency, as broadcast or required to be broadcast by full-power stations in the digital television service;

(2) information, in both English and Spanish, and accessible to persons with disabilities, concerning—

(A) the digital television transition, including the fact that a transition has taken place and that additional action is required to continue receiving television service, including emergency notifications; and

(B) the steps required to enable viewers to receive such emergency information via the digital television service and to convert to receiving digital television service, including a phone number and Internet address by which help with such transition may be obtained in both English and Spanish; and

(3) such other information related to consumer education about the digital television transition or public health and safety or emergencies as the Commission may find to be consistent with the public interest.

SEC. 3. LIMITATIONS.

In designing the program required by this Act, the Commission shall—

(1) take into account market-by-market needs, based upon factors such as channel and transmitter availability;

(2) ensure that broadcasting of the program specified in section 2(b) will not cause harmful interference with signals in the digital television service;

(3) not require the analog television service signals broadcast under this Act to be retransmitted or otherwise carried pursuant to section 325(b), 338, 339, 340, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 325(b), 338, 339, 340, 614, or 615);

(4) take into consideration broadcasters' digital power levels and transition and coordination plans that already have been adopted with respect to cable systems and satellite carriers' systems;

(5) prohibit any broadcast of analog television service signals under section 2(b) on any spectrum that is approved or pending approval by the Commission to be used for public safety radio services, including television channels 14-20; and

(6) not include the analog spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television broadcasting pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

SEC. 4. DEFINITIONS.

As used in this Act, the term ''emergency information'' has the meaning such term has under part 79 of the regulations of the Federal Communications Commission (47 C.F.R. part 79).

The bill (S. 3663), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

AUTHORIZING THE USE OF EMANCIPATION HALL

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 435 received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 435) authorizing the use of Emancipation Hall on December 2, 2008, for ceremonies and activities held in connection with the opening of the Capitol Visitor Center to the public.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DORGAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motions to reconsider be laid upon the table, and that any statements related to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 435) was agreed to.

THE ADOPTION OF BLUEFIN TUNA CONSERVATION AND MANAGEMENT MEASURES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. Res. 709 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 709) expressing the sense of the Senate that the United States should pursue the adoption of bluefin tuna conservation and management measures at the 16th Special Meeting of the International Commission on the Conservation of Atlantic Tunas.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 709) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 709

Whereas Atlantic bluefin tuna fishery is valuable commercially and recreationally in the United States and many other countries;

Whereas the International Convention for the Conservation of Atlantic Tunas entered into force on March 21, 1969;

Whereas the Convention established the International Commission for the Conservation of Atlantic Tunas to coordinate international research and develop, implement, and enforce compliance of the conservation and management recommendations on the Atlantic bluefin tuna and other highly migratory species in the Atlantic Ocean and the adjacent seas, including the Mediterranean Sea;

Whereas in 1974, the Commission adopted its first conservation and management recommendation to ensure the sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea, while allowing for the maximum sustainable catch for food and other purposes;

Whereas in 1981, for management purposes, the Commission adopted a working hypothesis of 2 Atlantic bluefin tuna stocks, with 1 occurring west of 45 degrees west longitude (hereinafter referred to as the ''western Atlantic stock'') and the other occurring east of 45 degrees west longitude (hereinafter referred to as the ''eastern Atlantic and Mediterranean stock'');

Whereas, despite scientific recommendations intended to maintain bluefin tuna populations at levels that will permit the maximum sustainable yield and ensure the future of the stocks, the total allowable catch quotas have been consistently set at levels significantly higher than the recommended levels for the eastern Atlantic and Mediterranean stock;

Whereas despite the establishment by the Commission of fishing quotas based on total allowable catch levels for the eastern Atlantic and Mediterranean bluefin tuna fishery that exceed scientific recommendations, compliance with such quotas by parties to the Convention that harvest that stock has been extremely poor, most recently with harvests exceeding such total allowable catch levels by more than 50 percent for each of the last 4 years;

Whereas insufficient data reporting in combination with unreliable national catch statistics has frequently undermined efforts by the Commission to assign quota overharvests to specific countries;

Whereas the failure of many Commission members fishing east of 45 degrees west longitude to comply with other Commission recommendations to conserve and control the overfished eastern Atlantic and Mediterranean bluefin tuna stock has been an ongoing problem;

Whereas the Commission's Standing Committee on Research and Statistics noted in its 2006 report that the fishing mortality rate for the eastern Atlantic and Mediterranean stock may be more than 3 times the level that would permit the stock to stabilize at the maximum sustainable catch level, and continuing to fish at the level of recent years ''is expected to drive the spawning biomass to a very low level'' giving ''rise to a high risk of fishery and stock collapse'';

Whereas the Standing Committee's 2008 report recommended that the annual harvest levels for eastern Atlantic and Mediterranean bluefin tuna be reduced from 32,000 metric tons to 15,000 metric tons or less to halt decline of the resource and initiate rebuilding;

Whereas the Standing Committee has stated that time and area closures could greatly facilitate the implementation and monitoring of rebuilding strategies and recommended a closure of the Mediterranean Sea in May, June, and July, as well as a minimum size limit of 25 kilograms;

Whereas in 2006, the Commission adopted the ''Recommendation by ICCAT to Establish a Multi-Annual Recovery Plan for Bluefin Tuna in the eastern Atlantic and Mediterranean'' containing a wide range of management, monitoring, and control measures designed to facilitate the recovery of the eastern Atlantic and Mediterranean bluefin tuna stock;

Whereas the Recovery Plan is inadequate and allows overfishing and stock decline to continue, and initial information indicates that implementation of the plan in 2007 by many eastern Atlantic and Mediterranean bluefin tuna harvesting countries has been poor;

Whereas since 1981, the Commission has adopted additional and more restrictive conservation and management recommendations for the western Atlantic bluefin tuna stock, and these recommendations have been implemented by Nations fishing west of 45 degrees west longitude, including the United States;

Whereas despite adopting, fully implementing, and complying with a science-based rebuilding program for the western Atlantic bluefin tuna stock by countries fishing west